

### **REMARKS**

Claims 1-6 and 8-11 are pending. Claims 1-15 have been rejected. Claims 7 and 12-15 have been cancelled.

### **Drawings**

The Examiner objected to the drawings under 37 C.F.R. § 1.83(a) for failing to show features contained within the claims. Specifically, the Examiner objects to the phrase "a sleeve" and "a flexible portion" as recited in the claims. Responsive to the Examiner's rejections, Applicants have amended the claims. Specifically, the phrase "a sleeve" has been replaced by "tube" and/or "protuberance" where applicable. Applicants respectfully submit the tube 170 is depicted as a tube in at least Figs. 1 and 2.

Additionally, in response to the Examiner's objection to "a flexible portion", Applicants direct the Examiner to ¶[0018], which indicates that tube 170 may be either rigid or flexible. However, to expedite prosecution, Applicants have deleted this matter from the claims.

Therefore, Applicants respectfully submit that the drawings are in compliance with 37 C.F.R. § 1.83(a) and, therefore, respectfully request withdrawal of the corresponding objection.

### **Claim Rejections - 35 U.S.C. § 102**

Claims 1-6 and 8-11 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,627,434 to Murray ("Murray '434").

Referring to Figs. 103, Murray '434 discloses delivery device 10 including liquid cement delivery nozzle 12 having an expandable tip 14. Tip 14 includes cylinder tip tube 26 and expandable bone cement shield 28. Tip 14 is secured to the distal end of nozzle 12 by inserting tip tube 26 within the end of the nozzle and forming a suitable *permanent bond* between the tip tube and nozzle. *See* Murray '434, col. 4, lines 11-14. Additionally, as shown in Fig. 11, intramedullary canal plug 80 may be positioned within collar 18 of delivery device 10. Specifically, bone cement shield 82 of plug 80 is compressed and received within collar 18, allowing solid base 84 to extend from collar 18. Once plug 80 is loaded into the distal end of extended collar 18, the distal end of device 10 is positioned within an intramedullary canal. Once properly positioned, a surgeon may depress handle 20 (Fig. 1) to withdraw collar 18 to the position shown in Fig. 12, i.e., slide collar 18 over nozzle 12 toward

handle 20. By withdrawing collar 18, plug 80 is released and bone cement shields 82, 28 expanded.

Applicants respectfully submit that amended independent Claim 1 is not anticipated by Murray '434, as Murray '434 fails to disclose each and every limitation called for in amended independent Claim 1. Specifically, amended independent Claim 1 calls for, *inter alia*, an orthopaedic injection restrictor apparatus including a nozzle having an elongate portion having an outer sidewall, and an orthopaedic plug including *a central portion directly releasably engaged with the elongated portion of the nozzle* and further including a plurality of flaps extending radially outwardly from the center portion, *wherein the plurality of flaps extends beyond the outer sidewall of the elongated portion of the nozzle when the orthopaedic plug is releasably engaged with the elongated portion of the nozzle.*

As set forth above, amended independent Claim 1 calls for a orthopaedic plug having a central portion directly releasably engaged with the elongate portion of a nozzle. Referring to Figs. 11 and 12 of Murray '434, plug 80 includes plug base 84 in the center of plug 80, which is not directly releasably engaged with nozzle 12 or collar 18. The only portion of plug 80 releasably engaged with either nozzle 12 or collar 18 is cement shield 82 of plug 80, not plug base 84. Additionally, taking tip tube 26, shown in Fig. 2 of Murray '434, as the plug called for in amended independent Claim 1, tip tube 26 is not releasably engaged with nozzle 12, but instead is *permanently bonded* to nozzle 12. Murray '434, col. 4, lines 11-14.

Additionally, amended independent Claim 1 further calls for, as set forth above, a plurality of flaps extending radially outward from the central portion of the orthopaedic plug, *wherein the plurality of flaps extend beyond an outer sidewall of the elongate portion of the nozzle when the plug is releasably engaged with the elongate portion of the nozzle.* As shown in Fig. 11 of Murray '484, in contrast to amended independent Claim 1, no portion of plug 80 extends beyond the outer sidewall of either collar 18 or nozzle 12 when plug 80 is releasably engaged thereto.

For at least the foregoing reasons, Applicants respectfully submit that amended independent Claim 1, as well as Claims 2-6 and 8-11, which depend therefrom, are not anticipated by Murray '434.

It is believed that the above represents a complete response to the Official Action and reconsideration is requested. Specifically, Applicant respectfully submits that the application is in condition for allowance and respectfully requests allowance thereof.

Application Serial No. 10/798,217  
Amendment dated July 3, 2007  
Reply to Office Action dated April 3, 2007

In the event Applicant has overlooked the need for an additional extension of time, payment of fee, or additional payment of fee, Applicant hereby petitions therefor and authorizes that any charges be made to Deposit Account No. 02-0385, Baker & Daniels.

Should the Examiner have any further questions regarding any of the foregoing, he is respectfully invited to telephone the undersigned at 260-424-8000.

Respectfully submitted,



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I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on: July 3, 2007

MATTHEW B. SKAGGS, REG. NO. 55,814

Name of Registered Representative



Signature

July 3, 2007

Date